

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

October 17, 2007

**Meeting**

Chairman Ron Poff called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m.

**Roll Call**

Roll call showed the following Board Members present: Ron Poff, John Borchers, Stacy Wall and Alan Rodrigues. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.

**Absences**

Mrs. Wall **moved to excuse Mr. Daniel Naas**, seconded by Mr. Rodrigues. **Motion carried.** Ayes: Wall, Poff, Borchers, and Naas. Nays: None.

Citizens attending the meeting: Jane Monnin.

**Board Minutes  
6-20-07**

Chairman Poff asked for discussion. Mrs. Wall **moved to approve the September 19, 2007 minutes as written**, seconded by Mr. Borchers. **Motion carried.** Ayes: Wall, Borchers, and Poff. Nays: None. Mr. Rodrigues abstained from the vote.

**Citizen Comments**

There were no citizen comments on items not on the agenda.

**Administration of  
Oath**

Mrs. Patterson, notary, swore in citizens wishing to speak and to Mr. Spring.

**New Business**

Chairman Poff explained the guidelines and procedures for the meeting and public hearings. He advised the applicants that a decision of the Board could be appealed to City Council within 10 days. If the Board granted the applicants request, the applicant may file the appropriate permits after the 10-day waiting period has expired.

**Case No. 11-07:  
Danny Poteet  
780 Pinehurst Dr  
Five variance  
requests**

**Case No. 11-07: Danny Poteet - 780 Pinehurst Dr - Inlot: Inlot 2813** - The applicant seeks the following five (5) variances:

1. A variance to Code §154.059(D)(2) to construct an accessory structure (shed) in the (southern) front yard of a double frontage home located at 780 Pinehurst Drive.
2. A variance to Section §154.059(D)(7) to construct an accessory structure (shed) in the front yard of a double frontage home, which was not an integral part of or connected with the principal building to which it is accessory.
3. A variance of 16 feet to Section §154.059(D)(9) to construct an accessory structure (shed) in the front yard of a double frontage home, 44 feet from the front property line rather than the required 60 feet from the front property line.
4. A variance of 2.5 feet to Code §154.059(D)(14)(e)(1) to construct a fence 6 feet in height in the front yard rather than the required 3.5 feet.
5. A variance to Code §154.059(D)(2) to construct an accessory structure (deck) in the (southern) front yard of a double frontage home located at 780 Pinehurst Drive.

**Present Zoning District:** R-1C – Urban Residential Zoning District

**Zoning Code(s):** §154.059(D)(2), §154.059(D)(7), §154.059(D)(9)

Mr. Spring stated that the applicant requested five (5) variances to construct a shed, deck and privacy fence in the required "front yard" of a double frontage home located at 780 Pinehurst Drive. The parcel in question was a double frontage lot, with the front of the home facing Pinehurst Drive, and the rear of the home abutting Kessler-Cowlesville Road. The shed, fence, and deck were proposed to be constructed in the "front" yard facing Kessler-Cowlesville Road.

Variance 1

Code §154.059(D)(2) states "No detached accessory building shall be erected in any required yard except a rear yard." As stated above, the shed, is proposed to be constructed in the "front" yard facing Kessler-Cowlesville Road. Therefore, a variance to Code §154.059(D)(2) allowing a detached shed in the front yard facing Kessler-Cowlesville Road is required.

Variance 2

Code §154.059(D)(7) states "Any accessory building, if not located in the rear yard, shall be an integral part of or connected with the principal building to which it is accessory." As stated above, the shed, is proposed to be constructed in the "front" yard facing Kessler-Cowlesville Road. The applicant proposes to construct the shed detached from the principal building in a "front yard" as defined by code. Therefore, a variance to Code §154.059(D)(7) allowing a shed that is not an integral part of or connected with the principal building to which it is accessory to be constructed in a front yard.

Variance 3

Code §154.059(D)(9) states "No accessory use or structure in any R District except an off-street parking area shall be located no less than 60 feet from the front property line, unless such use or structure is contained within or constitutes an integral part of the principal building..." As stated above, the shed is proposed to be constructed in the "front" yard facing Kessler-Cowlesville Road. The applicant proposes to construct the shed 44 feet from the front property line (abutting Kessler-Cowlesville) rather than the required 60 feet from the front property line. Therefore a variance of 16 feet ( $60 - 44 = 16$ ) to Code §154.059(D)(9).

Variance 4

§154.059(D)(14)(e)(1) states "fences, walls, and hedges shall not exceed  $3\frac{1}{2}$  feet in height in any front or corner side yard, except as otherwise permitted in this chapter." As stated above, the fence is proposed to be constructed in the "front" yard facing Kessler-Cowlesville Road. The applicant proposes to erect  $\pm$  278 linear feet of 6 foot tall wooden privacy fence is said "front" yard abutting Kessler-Cowlesville Road. Therefore, a variance of 2.5 feet is required ( $6 - 3.5 = 2.5$ ).

Variance 5

Code §154.059(D)(2) states "No detached accessory building shall be erected in any required yard except a rear yard." The deck is proposed to be constructed in the "front" yard facing Kessler-Cowlesville Road. Therefore, a variance to Code §154.059(D)(2) allowing a detached deck in the front yard facing Kessler-Cowlesville Road is required.

Mr. Spring explained the procedural requirements to grant the variances in this case as outlined in Sections §154.175(E)(1)&(9) §154.175(C) and §154.175(D) of the Tipp City Code of Ordinances.

Mr. Spring noted the following about the case:

- The proposed shed would be 12' x 10' (120 square feet in area). The shed would be +/- 44' from the southern property line (Kessler-Cowlesville Rd.), +/- 5' from the eastern property line, +/- 75' from the western property line, and +/- 83' from the northern property line.
- The proposed deck would be 20' x 30' (600 square feet in area). The deck would be +/- 61' from the southern property line (Kessler-Cowlesville Rd.), +/- 40' from the eastern property line, +/- 20' from the western property line.
- The proposed fence enclosing the yard abutting Kessler-Cowlesville Road would be 278 linear feet in length, 6' in height. The fence would have a setback  $\pm$  10' from the southern property line and be built on the eastern and western property lines.
- Similar variances for nearby properties on Pinehurst Drive and vicinity have previously granted by the BZA including:
  - 810 Pinehurst 8/17/05
  - 800 Pinehurst 9/20/00
  - 760 Pinehurst 6/16/93
  - 740 Pinehurst 5/15/96
  - 720 Pinehurst 5/20/98
  - 680 Pinehurst 10/20/93
  - 910 Winston 3/16/98
- If the requested variances were approved, the applicant would be required to obtain an approved Zoning Compliance Permit prior to the construction of the shed, fence, and deck.

Mr. Danny Poteet, 780 Pinehurst Drive – stated that the current deck was part of the original construction of the structure. He also stated that the material would be treated deck board. Mr. Poteet noted that he had only lived in the home for five weeks.

Mr. Spring stated that there were no neighbor comments received.

Chairman Poff asked for further discussion. There being none the Board acted as follows:

**Variance 1** [Approved as submitted](#)

Mr. Rodrigues **moved to grant a variance to Code §154.059(D)(2) allowing a detached shed in the front yard facing Kessler-Cowlesville Road**, seconded by Chairman Poff. **Motion carried.** Ayes: Rodrigues, Poff, Wall, and Borchers. Nays: None.

**Variance 2** [Approved as submitted](#)

Mr. Rodrigues **moved to grant a variance to Code §154.059(D)(7) allowing a shed that is not an integral part of or connected with the principal building to which it is accessory to be constructed in a front yard seconded**, by Chairman Poff. **Motion carried.** Ayes: Rodrigues, Poff, Wall, and Borchers. Nays: None.

**Variance 3** [Approved as submitted](#)

Mr. Rodrigues **moved to grant a variance of 16 feet to Section §154.059(D)(9) to construct an accessory structure (shed) in the front yard of a double frontage home, 44 feet from the front property line rather than the required 60 feet from the front property line**, seconded by Chairman Poff. **Motion carried.** Ayes: Rodrigues, Poff, Wall, and Borchers. Nays: None.

**Case No. 12-07:  
Aaron Simmons  
Upper Room  
Worship Center  
203 N. Fourth St  
Sign variance  
request**

**Variance 4** Approved as submitted

Mr. Rodrigues **moved to grant a variance of 2.5 feet to Code §154.059(D)(14)(e)(1) to construct a fence 6 feet in height in the front yard rather than the required 3.5 feet**, seconded by Chairman Poff. **Motion carried.** Ayes: Rodrigues, Poff, Wall, and Borchers. Nays: None.

**Variance 5** Approved as submitted

Mr. Rodrigues **moved to grant a variance to Code §154.059(D)(2) allowing a deck in the front yard facing Kessler-Cowlesville Road**, seconded by Chairman Poff. **Motion carried.** Ayes: Rodrigues, Poff, Wall, and Borchers. Nays: None.

**Case No. 12-07: Aaron Simmons, Associate Pastor for Upper Room Worship Center - 203 N. Fourth St - Inlot: Pt. IL 230 and Pt. OL 18** - The applicant seeks a variance of 3' 8" to Code §154.100(B)(4) to allow a ground sign 6' 4" from the right of way rather than the required 10'.

**Present Zoning District:** R-2 – Urban Residential Zoning District

**Zoning Code(s):** §154.059(D)(2), §154.059(D)(7), §154.059(D)(9)

Mr. Spring stated that the Upper Room Worship Center was located on the northwest corner of N. Fourth Street and Plum Street. The applicant requested a variance to place a ground sign adjacent to the primary structure on N. Fourth Street. Due to the proximity of the structure to the right-of-way, the applicant requested a variance of 3' 8" to Code §154.100(B)(4) to allow a ground sign 6' 4" from the right of way rather than the required 10'.

Mr. Spring explained the procedural requirements to grant the variances in this case as outlined in Sections §154.106(C)(1) §154.175(C) and §154.175(D) of the Tipp City Code of Ordinances.

Mr. Spring noted the following about the case:

- A sign (for another church previously at this location) existed previously in the position requested by the applicant. The sign, being less than the required 10' from the right-of-way, was considered nonconforming. Per Code §154.136(E)(2), the sign lost its nonconforming status when it was removed from its location. Therefore, a variance was required to place a new sign in the identical position.
- The church does not have any other ground signage.
- If the variance was granted by the Board, a sign permit application was required to be completed by the applicant and can be approved administratively.

Mr. Aaron Simmons – Associate Pastor, Upper Room Worship Center, 203 N. Fourth Street – stated it was necessary to acquire the sign to identify the site. The sign would be bolted to existing concrete pad and would like to have the sign illuminated. It was noted that Mr. Simmons had not decided on which way he would like to illuminate the sign whether it be from the inside the sign or ground mounted spot lights.

Mrs. Patterson stated that there were no neighbor comments received.

Chairman Poff asked for further discussion. There being none Mrs. Wall **moved to grant a variance of 3' 8" to Code §154.100(B)(4) to allow a ground sign 6' 4" from the right of way rather than the required 10'**, seconded by Mr. Borchers. **Motion carried.** Ayes: Wall, Borchers, Poff, and Rodrigues. Nays: None.

**Old Business**

There was none.

**Miscellaneous**

Board Members concurred that the Boards and Commissions dinner was very nice and appreciated.

Board Members discussed the next month's meeting date, due to the regularly scheduled meeting date being the day before the Thanksgiving Holiday. Mrs. Wall **moved to move the next month's meeting date from November 21, 2007 to November 28, 2007**, seconded by Mr. Borchers. **Motion carried.** Ayes: Wall, Borchers, Poff, and Rodrigues. Nays: None.

**Adjournment**

There being no further business, Mr. Rodrigues **moved to adjourn the meeting**, seconded by Chairman Poff and unanimously approved. **Motion carried.** Chairman Poff declared the meeting adjourned at 7:56 p.m.

\_\_\_\_\_  
Ron Poff, Chairman

Attest: \_\_\_\_\_  
Kimberly Patterson, Board Secretary